

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**DANIEL F. HERRERA and
MILDRED HERRERA,**

Plaintiffs,

vs.

No. 6:10-CV-01183-____-RHS

**KATHERINE CROSSLAND and
GEICO INDEMNITY INSURANCE COMPANY,**

Defendants.

**FIRST AMENDED COMPLAINT FOR PERSONAL INJURY
AND LOSS OF CONSORTIUM**

COME NOW Plaintiffs Daniel F. Herrera and Mildred Herrera, by and through their counsel of record, ABQ LAW CLINIC, MORRIS LAW FIRM, P.A., (William E. Frazier Esq. and Kerry J. Morris, Esq.), and for their complaint, state as follows:

1. This action involves a motor vehicle collision (“the collision”) that occurred on March 18, 2008 in the City of Taos, County of Taos, State of New Mexico between a vehicle operated by Plaintiff Daniel F. Herrera (“Mr. Herrera”) and a vehicle operated by Defendant Katherine Crossland (“Crossland”), and in which Plaintiff Mildred Herrera (“Mrs. Herrera”), Mr. Herrera’s wife, was an occupant of the vehicle driven by Mr. Herrera.

2. Upon information and belief, at all times material to this action, Defendant Geico Indemnity Insurance Company (“Geico”) was the automobile liability insurance company for the vehicle driven by Defendant Crossland in this case, including all

amounts owed to Plaintiff pursuant to the State of New Mexico's financial responsibility laws, NMSA § 66-5-201 *et seq*, and is named as a nominal party herein under applicable New Mexico case law.

3. This court has jurisdiction over the parties and subject matter of this action.

COUNT I

4. The foregoing paragraphs are incorporated herein by reference as though fully set forth.

5. Defendant Crossland had a duty to operate the vehicle she was driving in a safe, lawful, and prudent manner so as to avoid causing harm to others, including Plaintiffs.

6. Defendant Crossland breached her duty to Plaintiffs, which breach of duty was the direct and proximate cause of the collision and Plaintiffs' damages alleged herein.

7. As a direct and proximate result of Defendant Crossland's breach of her duties, and therefore the negligence of Defendant Crossland, Plaintiff Daniel Herrera has suffered damages including, but not limited to, bodily injuries, past and future pain and suffering, past and future impairment, and past and future medical expenses.

8. Defendant Crossland is liable to Plaintiff Daniel Herrera for the damages he suffered as a result of this incident at issue herein.

COUNT II

9. The foregoing paragraphs are incorporated herein by reference as though fully set forth.

10. Because of the injuries sustained by Mr. Herrera in the incident at issue herein, Mrs. Herrera suffered emotional distress due to losing the normal company of her husband.

11. Mrs. Herrera's loss of the normal company of her husband, and thus her emotional distress, were directly and proximately caused by Defendant Crossland's breach of her duty to operate the vehicle she was driving in a safe, lawful, and prudent manner.

12. Defendant Crossland thus is liable to Plaintiff Mildred Herrera for the damages she suffered as a result of the incident at issue herein.

COUNT III

13. The foregoing paragraphs are incorporated herein by reference as though fully set forth.

14. At all times material hereto, Defendant Geico insured Defendant Crossland under a motor vehicle liability policy procured by force of legislative enactment and the joinder of defendant insurance company is permissible under the laws of the State of New Mexico.

15. Pursuant to the New Mexico financial responsibility laws, NMSA §66-5 201 *et seq*, Defendant Geico is liable to Plaintiffs for all damages awarded against Defendant Crossland in this case.

WHEREFORE, Plaintiffs pray for judgment against Defendants Katherine Crossland and Geico Indemnity Company in an amount to be determined at trial, to include compensatory damages, costs of this action, pre-judgment and post judgment interest, attorney fees, and for any other relief that the court may deem just and proper.

Respectfully submitted,

ABQ LAW CLINIC
MORRIS LAW FIRM, P.A.

/s/

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